

1
2
3
4
5
6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-288

11 **EVA MARIA REYES AKA EVA MARIA**
12 **VELA**
13 **11302 Mantova Ave**
14 **Bakersfield, CA 93312**
15 **Registered Nurse License No. 503156**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16
17
18
19
20
21
22
23
24
25
26
27
28
Respondent.

FINDINGS OF FACT

1. On or about November 7, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-288 against Eva Maria Reyes aka Eva Maria Vela (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about September 2, 1994, the Board of Registered Nursing (Board) issued Registered Nurse License No. 503156 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-288 and expired on October 31, 2011. This lapse in licensure, however, pursuant to Business and Professions Code sections 118(b) and 2764 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

///

1 3. On or about November 7, 2011, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2012-288, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
6 which was and is: 11302 Mantova Ave, Bakersfield, CA 93312.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124. On or about November 15, 2011, the Board received the signed domestic mail return receipt
10 indicating that Respondent received the aforementioned documents.

11 5. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts
14 of the accusation not expressly admitted. Failure to file a notice of defense shall
15 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
16 may nevertheless grant a hearing.

17 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
19 288.

20 7. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
24 respondent.

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 2012-288, finds
that the charges and allegations in Accusation No. 2012-288, are separately and severally, found
to be true and correct by clear and convincing evidence.

1 ///

2 9. Taking official notice of its own internal records, pursuant to Business and
3 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
4 and Enforcement is \$1107.50 as of December 8, 2010.

5 DETERMINATION OF ISSUES

6 1. Based on the foregoing findings of fact, Respondent Eva Maria Reyes aka Eva Maria
7 Vela has subjected her Registered Nurse License No. 503156 to discipline.

8 2. The agency has jurisdiction to adjudicate this case by default.

9 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
10 Nurse License based upon the following violations alleged in the Accusation which are supported
11 by the evidence contained in the Default Decision Evidence Packet in this case.

12 a. Code sections 490 and 2761, subdivision (f), in conjunction with California Code of
13 Regulations, title 16, section 1444, for the conviction of a substantially related crime.

14 b. Code sections 2761, subdivision (a), and 2762, subdivision (e), on the grounds of
15 unprofessional conduct for falsifying medical records.

16 c. Code sections 2761, subdivision (a), and 2762, subdivision (a), in conjunction with
17 Health and Safety Code section 11550, on the grounds of unprofessional for unlawfully obtained
18 and administered to herself a controlled substance.

19 d. Code sections 2761, subdivision (a), and 2762, subdivision (b), on the grounds of
20 unprofessional conduct for using a controlled substance.

21 e. Code section 2761, subdivisions (a) and / or (d), for acts of unprofessional conduct,
22 and / or acts violating provisions of the Nursing Practice Act.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

///

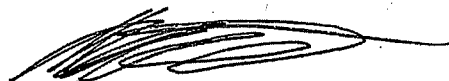
ORDER

IT IS SO ORDERED that Registered Nurse License No. 503156, heretofore issued to Respondent Eva Maria Reyes aka Eva Maria Vela, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 6, 2012.

It is so ORDERED July 6, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

default decision_LIC.rtf
DOJ Matter ID: LA2011600330.

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation 2012-288

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHELLE MCCARRON
Deputy Attorney General
4 State Bar No. 237031
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2579
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012 - 288**

12 **EVA MARIA REYES**
13 **aka EVA MARIA VELA**
11302 Mantova Ave
14 Bakersfield, CA 93312

A C C U S A T I O N

15 Registered Nurse License No. 503156

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about September 2, 1994, the Board issued Registered Nurse License No.
23 503156 to Eva Maria Reyes aka Eva Maria Vela (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and expired on
25 October 31, 2011.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5

6
7
8

9

10
11
12
13
14
15
16
17

18
19
20

21
22
23

24

25
26

2'

28

1

2 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
3 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
4 Act] or regulations adopted pursuant to it.

5

6 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
7 functions, and duties of a registered nurse, in which event the record of the conviction shall be
8 conclusive evidence thereof.

9

10 9. Section 2762 of the Code provides:

11 "In addition to other acts constituting unprofessional conduct within the meaning of this
12 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
13 chapter to do any of the following:

14 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
15 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
16 administer to another, any controlled substance as defined in Division 10 (commencing with
17 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
18 defined in Section 4022.

19 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
20 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
21 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
22 himself or herself, any other person, or the public or to the extent that such use impairs his or her
23 ability to conduct with safety to the public the practice authorized by his or her license.

24

25 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
26 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
27 section."

28 ///

1 10. Section 2764 of the Code provides that the expiration of a license shall not deprive
2 the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to
3 render a decision imposing discipline on the license. Under section 2811(b) of the Code, the
4 Board may renew an expired license at any time within eight years after the expiration.

5 11. Health and Safety Code section 11550 makes it unlawful for any person to use or be
6 under the influence of any controlled substance in Schedule II (Health and Safety Code section
7 11055), or any narcotic drug in Schedules III-V, except when administered by or under the
8 direction of an authorized license.

9 **REGULATORY PROVISIONS**

10 12. California Code of Regulations, title 16, section 1444, provides:

11 "A conviction or act shall be considered to be substantially related to the qualifications,
12 functions or duties of a registered nurse if to a substantial degree it evidences the present or
13 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
14 safety, or welfare."

15 **COST RECOVERY**

16 13. Section 125.3 of the Code provides that the Board may request the administrative law
17 judge to direct a licensee found to have committed a violation or violations of the licensing act to
18 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

19 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

20 14. Demerol is a Schedule II controlled substance, as designated by Health and Safety
21 Code section 11055(c)(17), and is categorized as a dangerous drug pursuant to section 4022 of the
22 Code.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Substantially Related Conviction)

25 15. Respondent is subject to disciplinary action under Code sections 490 and 2761,
26 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that,
27 Respondent was convicted of a crime substantially related to the qualifications, functions, or
28 duties of a registered nurse which to a substantial degree evidences her present or potential

1 unfitness to practice in a manner consistent with the public health, safety, or welfare. The
2 circumstances are as follows:

3 a. On or about November 6, 2009, after pleading nolo contendere, Respondent was
4 convicted of one misdemeanor count of violating Penal Code section 508 [embezzlement] in the
5 criminal proceeding entitled *The People of the State of California v. Eva Maria Reyes* (Super. Ct.
6 Kern County 2010, No. BF129169A). The Court sentenced Respondent to 90 days in jail, placed
7 Respondent on three (3) years of probation, and ordered Respondent to pay a fine of \$375.00.

8 b. The circumstances underlying the conviction are that on or about August 15, 2009
9 and August 16, 2009, while working in Urgent Care, Respondent stole 800 milligrams of
10 Demerol from the Bakersfield Family Medical Center. Respondent admitted to making a false
11 patient name or medical record number on the narcotic log in sheet to retrieve the Demerol.
12 Respondent, after filling the narcotic log in sheet with false information, admitted to going to the
13 bathroom at work and injecting the drug into her system through her wrists, hands, or arms.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (False Records)

16 16. Respondent is subject to disciplinary action under Code sections 2761, subdivision
17 (a), and 2762, subdivision (e), on the grounds of unprofessional conduct, in that, on or about
18 August 15, 2009 and August 16, 2009, Respondent falsified medical records in order to obtain a
19 controlled substance and dangerous drug. Complainant refers to and by this reference incorporates
20 the allegations set forth above in paragraph 15, subparagraphs a and b, inclusive, as though set
21 forth fully.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Unlawfully Obtain / Self-Administer Controlled Substances)

24 17. Respondent is subject to disciplinary action under Code sections 2761, subdivision
25 (a), and 2762, subdivision (a), in conjunction with Health and Safety Code section 11550, on the
26 grounds of unprofessional conduct, in that, on or about August 15, 2009 and August 16, 2009,
27 Respondent unlawfully obtained and administered to herself a controlled substance and dangerous
28 drug. The circumstances are as follows:

1 a. On or about November 6, 2009, after pleading guilty, Respondent was placed on
2 deferred entry of judgment for one felony violation of Health and Safety Code section 11350(a)
3 [possession of a controlled substance] in the criminal proceeding entitled *The People of the State*
4 *of California v. Eva Maria Reyes* (Super. Ct. Kern County 2010, No. BF129169A). Complainant
5 refers to and by this reference incorporates the allegations set forth above in paragraph 15,
6 subparagraph b, inclusive, as though set forth fully.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 (Dangerous Use of Controlled Substances)

9 18. Respondent is subject to disciplinary action under Code sections 2761, subdivision
10 (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that, on or about
11 August 15, 2009, and August 16, 2009, Respondent used a controlled substance and dangerous
12 drug to an extent or in a manner dangerous or injurious to herself or others. Complainant refers to
13 and by this reference incorporates the allegations set forth above in paragraphs 15 and 17,
14 inclusive, as though set forth fully

15 **SIXTH CAUSE FOR DISCIPLINE**

16 (Unprofessional Conduct / Violate Nursing Practice Act)

17 19. Respondent is subject to disciplinary action under Code section 2761, subdivisions (a)
18 and / or (d), in that, Respondent committed acts of unprofessional conduct, and / or acts violating
19 provisions of the Nursing Practice Act. Complainant refers to and by this reference incorporates
20 the allegations set forth above in paragraphs 15-18, inclusive, as though set forth fully.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

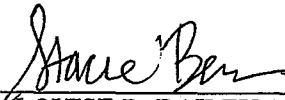
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. 503156, issued to Eva Maria Reyes aka Eva Maria Vela;
2. Ordering Eva Maria Reyes to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

November 7, 2011



LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2011600330
accusation.rtf